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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------|
| 10/730,744  | 12/08/2003  | Bruce Wesson         | P02258US (98525.1P3)      | 2669             |
| 22920 7590 12/18/2006<br>GARVEY SMITH NEHRBASS & NORTH, LLC<br>LAKEWAY 3, SUITE 3290<br>3838 NORTH CAUSEWAY BLVD.<br>METAIRIE, LA 70002 |             |                      | EXAMINER<br>ALEMU, EPHREM |                  |
|   |             |                      | ART UNIT<br>2821          | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE  |             | MAIL DATE            | DELIVERY MODE             |                  |
| 3 MONTHS  |             | 12/18/2006           | PAPER                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/730,744             | WESSON, BRUCE       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Ephrem Alemu           | 2821                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 39-54 and 56-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-54 and 56-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 39-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Eggers (US 5,929,568).

Re claims 39-43, Eggers discloses an LED bulb (i.e., LED circuit including LED light source) adaptable to an application with a load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) to match impedance/resistance requirements of the application, the bulb including at least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89); wherein the bulb is a replacement LED bulb with a load/resistance to match impedance/resistance of an AC/DC bulb (i.e., over wide range of input voltage or current) being replaced (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

Re claims 44-48, Eggers discloses an LED bulb (i.e., LED circuit including LED light source) adaptable to an application with built in or attachable load/resistance to match impedance/resistance requirements of the application, the bulb including at least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89); wherein the bulb is a replacement LED bulb with a load/resistance to match impedance/resistance of an

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AC/DC bulb (i.e., over wide range of input voltage or current) being replaced (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

Re claims 49-54, Eggers discloses an apparatus comprising an LED bulb (i.e., LED circuit including LED light source) intended as a replacement bulb for a second bulb (i.e., incandescent bulb) and built in or attachable load/resistance to match, mimic, or approximate the impedance/resistance requirements for which the second bulb is used, the apparatus including at least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89) (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 49, 56-59 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 9, 12, 14 and 16 of U.S. Patent No. 6,371,636 in view of Eggers (US 5,929,568).

Re claims 49, 56-59, '636 patent claims an LED bulb that is adapted for use in standard automotive bayonet type bulb sockets in a brake light mode and a tail light mode, and the bulb comprises limitations in a manner claimed in claims 56-59.

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However, '636 patent does not disclose built in or attachable load/resistance to match, mimic, or approximate the impedance/resistance requirements as claimed in claim 49.

Eggers discloses an apparatus comprising an LED bulb (i.e., LED circuit including LED light source) intended as a replacement bulb for a second bulb (i.e., incandescent bulb) and built in or attachable load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) to match, mimic, or approximate the impedance/resistance requirements for which the second bulb (i.e., incandescent bulb) is used, the apparatus including at least one LED (22, 24, 52, 54, 88, 90, ...) and a load (i.e., compensation block(s) 20, 64, 57, 86, 89) (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Led light module of the issued patent '636 by providing a built in or attachable load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) as taught by Eggers' for the purpose of matching the luminance to that of an incandescent bulb over a wide range of input currents or voltages as taught by Eggers' to match, mimic, or approximate the impedance/resistance requirements for which the second bulb (i.e., incandescent bulb) is used.

#### ***Response to Arguments***

5. Applicant's arguments filed 1-23-06 have been fully considered but they are not persuasive.

In response to applicant argument, Eggers does not claim a bulb or circuit to match the impedance/resistance requirement of an application as required in claims 39-54 is respectfully disagreed. Eggers clearly discloses a bulb or circuit (i.e., LED circuit including LED light

source) to match the impedance/resistance requirement of an application as discussed above in claims 39-54 (in addition, see Eggers' Col. 6, lines 14-21).

In response to applicant argument, Egger does not anticipate claims 39-54 because Applicant construe that it is extremely unlikely that Eggers circuit would match the resistance of the incandescent bulb if the circuit of Eggers' were used to replace incandescent bulb, because it might have higher or lower resistance than the incandescent bulb depending on what type and configuration of LEDs are used" is respectfully disagreed.

The circuit of Eggers' would clearly match the resistance of the incandescent bulb regardless of the type and configuration of LEDs being used since the overall resistance depends on the combination of the at least one LED (22, 24, 52, 54, 88, 90, ...) and the load (i.e., compensation block(s) 20, 64, 57, 86, 89) as taught by Eggers'. (Figs. 3, 4, 6, 8; abstract; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

In response to applicant argument with respect to the obviousness-type double patenting rejection that Eggers does not claim basic invention claim in claim 49 is respectfully disagreed. The issued patent discloses all the structural limitation as required in claims 56-59. The only obvious difference between the issued patent '636 and the claimed invention is that the issued patent '636 does not discloses built in or attachable load/resistance to match, mimic, or approximate the impedance/resistance requirements as claimed in claim 49. However, Egger clearly discloses for an LED bulb (i.e., LED light source) a built in or attachable load/resistance (i.e., LED circuit) to match, mimic, or approximate the impedance/resistance requirements of the second bulb (i.e., incandescent bulb) as claimed in claim 49 (Figs. 3, 4, 6, 8; Col. 1, lines 5-33; Col. 2, lines 8-19; Col. 6, lines 8-28).

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Led light module of the issued patent '636 by providing a built in or attachable load/resistance (i.e., compensation block(s) 20, 64, 57, 86, 89) as taught by Eggers' for the purpose of matching the luminance to that of a second bulb over a wide range of input currents or voltages as taught by Eggers' for no other reason than matching, mimic, or approximating the impedance/resistance requirements for which the second bulb (i.e., incandescent bulb) is used.

Thus, the obviousness-type double patenting rejection as discussed above is proper.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ephrem Alemu whose telephone number is (571) 272-1818. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy P Callahan can be reached on (571) 272-1740. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



TUYET VO  
PRIMARY EXAMINER

EA  
12-01-06